

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Case No. 2:18-CR-129 JCM (DJA)

Plaintiff(s),

ORDER

v.

BENJAMIN COTTMAN and
MELVIN BROWN,

Defendant(s).

Presently before the court is defendant Benjamin Cottman's motion for leave to file a three-page supplement to his sentencing memorandum and brief in support of denying a career criminal enhancement pursuant to USSG 4B1.2(a). (ECF No. 162).

Cottman disputes that his guilty plea to four counts of Hobbs Act robbery, 18 U.S.C. § 1951, qualifies as a "crime of violence" that triggers the career criminal enhancement pursuant to USSG 4B1.2(a). (ECF No. 162). He notes that since filing his sentencing memorandum and brief in early October 2020, the Tenth Circuit in *United States v. Cuthbertson*, 2020 WL 6306016 (10th Cir. Oct. 28, 2020), called into question the Ninth Circuit's holding and reasoning in *United States v. Dominguez*, 954 F.3d 1251 (9th Cir. 2020). In *Dominguez*, the Ninth Circuit held that Hobbs Act robbery is categorically a crime of violence under 18 U.S.C. § 924(c)(3)(A)'s firearm enhancement. 954 F.3d at 1261.

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that defendant's motion for leave to file a supplement (ECF No. 162) be, and the same hereby is, GRANTED.

The clerk shall docket Cottman's supplemental memorandum attached as Exhibit A to

1 the instant motion. The government shall have fourteen (14) days from the entry of this
2 order to respond to Cottman's supplement.

3 DATED January 22, 2021.

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5 UNITED STATES DISTRICT JUDGE
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